

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00227-RJC-DCK

US FOODS, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
WHITE OAK MANOR – CHARLOTTE,)	<u>ORDER</u>
INC., and WHITE OAK)	
MANAGEMENT, INC.,)	
)	
Defendants.)	

THIS MATTER comes before the Court on Plaintiff’s Motion to Dismiss, (Doc. No. 15), and the Magistrate Judge’s Memorandum and Recommendation (“M&R”), (Doc. No. 18).

I. BACKGROUND

On June 20, 2019, Defendants filed counterclaims against Plaintiff for negligence, breach of contract, breach of express and implied warranties, and equitable indemnification. (Doc. No. 10.) On August 12, 2019, Plaintiff filed its Motion to Dismiss pursuant to Rule 12(b)(6). (Doc. No. 15.) In the M&R, the Magistrate Judge recommended that this Court deny Plaintiff’s motion. (Doc. No. 18, at 8.) The Magistrate Judge advised the parties of their right to file objections within fourteen days, (Doc. No. 18, at 8); however, no objections were filed, and the time for doing so has expired.

II. STANDARD OF REVIEW

The district court may assign dispositive pretrial matters pending before the

court to a magistrate judge for “proposed findings of fact and recommendations.” 28 U.S.C. § 636(b)(1)(B). The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

III. DISCUSSION

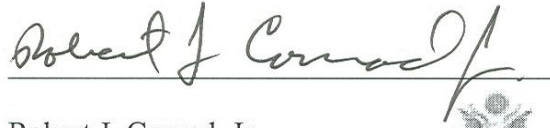
As no objection to the M&R has been made, the parties have waived their right to de novo review of any issues covered in the M&R. After review of the M&R and the entire record, the Court determines that the recommendation of the Magistrate Judge to deny Plaintiff’s Motion to Dismiss is fully consistent with and supported by current law. Therefore, the Court adopts the M&R.

IV. CONCLUSION

IT IS THEREFORE ORDERED that:

1. The Magistrate Judge’s M&R, (Doc. No. 18), is **ADOPTED**; and
2. Plaintiff’s Motion to Dismiss, (Doc. No. 15), is **DENIED**.

Signed: March 16, 2020

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

